82-1190

Supreme Court, U.S.
FILED
JAN 14 1983
ALEXANDER L. STEVAS
CLERK

No. _____

Supreme Court of the United States

October Term, 1982

Stillwater Condominium Association,

Petitioner,

–vs–

American Home Assurance Company
and
Fireman's Fund Insurance Company,

Respondents.

On Writ of Certiorari To The
United States Court of Appeals
For The Ninth Circuit

Petition for Writ of Certiorari

PAGE WELLCOME, ESQ.
Wellcome & Frost, P.S.C.
136 East Main Street
Bozeman, Montana 59715
Telephone: (406) 586-4747

Attorney for Petitioner

QUESTIONS PRESENTED FOR REVIEW

1. Whether the Ninth Circuit Memorandum Opinion is so deficient as to require review by this Court.

2. Whether the construction placed upon the policy provisions is contrary to prior Ninth Circuit interpretation and the interpretation of other Federal and State Courts.

3. Whether the insurance industry is so infused with overriding public responsibility as to require a definitive construction of oft litigated and divergently interpreted standard policy provisions.

TABLE OF CONTENTS

	PAGE
QUESTIONS PRESENTED FOR REVIEW	i
TABLE OF CONTENTS.	ii
TABLE OF AUTHORITIES	iii
LIST OF ALL PARTIES IN THE COURT BELOW .	1
OPINIONS BELOW	1
GROUNDS ON WHICH THE JURISDICTION OF THIS COURT IS INVOKED	1
STATEMENT OF THE CASE	2
1. THE FACTUAL BACKGROUND	2
2. THE PROCEEDINGS IN THE COURTS BELOW	4
ARGUMENT	6
1. THE NINTH CIRCUIT MEMORANDUM OPINION IS SO DEFICIENT AS TO REQUIRE REVIEW BY THIS COURT. .	6
2. THE CONSTRUCTION PLACED UPON THE POLICY PROVISIONS IS CONTRARY TO PRIOR NINTH CIRCUIT INTERPRETATION AND THE INTERPRETATION OF OTHER FEDERAL AND STATE COURTS.	9
3. THE INSURANCE INDUSTRY IS SO INFUSED WITH OVERRIDING PUBLIC RESPONSIBILITY AS TO REQUIRE A DEFINITIVE CONSTRUCTION OF OFT LITIGATED AND DIVERGENTLY INTERPRETED STANDARD POLICY PROVISIONS.	19

PAGE

CONCLUSION 20

CERTIFICATE OF FILING AND SERVICE. . . . 21

APPENDICES

Memorandum of Court of Appeals, Ninth Circuit, dated August 6, 1982. . . . . i-1

Memorandum and Order of United States District Court of Montana, Butte Division, dated March 3, 1981. . . . . ii-1

Judgment of United States District Court of Montana, Butte Division, dated March 6, 1981 . . . . . iii-1

Order of Court of Appeals, Ninth Circuit, dated October 21, 1982 . .iv-1

Comprehensive General Liability Insurance - Perspective and Overview by George H. Tinker. . . . v-1

List of unit owners of The Association of Unit Owners of Stillwater Condominiums vi-1

TABLE OF AUTHORITIES

Aid Insurance Services, Inc. v. Mel Geiger d/b/a Mel's Concrete Construction, N.Dak. , 294 N.W.2d 411 (Sup.Ct.N.Dak.1980). 16

B.A. Green Construction Co., Inc. v. Liberty Mutual Insurance Co., 213 Kan. 393, 517 P.2d 563 (Sup.Ct.Kan.1973). . . 15

Central Armature Works v. Am. Motorists, Inc., 520 F.Supp. 283 (D.Ct.D.C.1980). 11

PAGE

Filos, Bullard and Smyth v. Insurance Company of North America, 605 F.2d 598 (2nd Cir.1978) 16

Haugan v. Home Indemnity Company, 86 S.Dak. 406, 197 N.W.2d 18 (S. Dak. 1972) 14,15

Indiana Ins. Co. v. DeZutti, 408 N.E.2d 1275 (S.Ct.Ind. 1980) 15

LaMarche v. Shelby Mutual Ins. Co., Fla , 390 So.2d 325 (Sup.Ct. Fla. 1980) 15

Maneikis v. St. Paul Ins. Co. of Illinois, 655 F.2d 818 (7th Cir.1981). . 11

Previews Inc. v. California Union Ins. Co., 640 F.2d 1026 (9th Cir. 1981). 11

St. Paul Fire and Marine Insurance Company v. Sears, Roebuck and Company, 603 F.2d 780 (9th Cir. 1979) 10

Stillwater Condominium Association v. American Home Assurance Company, 508 F.Supp. 1075 (D.Mont.1981) 3

Vargas v. Insurance Company of North America, 651 F.2d 838 (2nd Cir.1981) . . 16

Walker v. Firemans' Fund Insurance Co., 268 F.Supp. 899, 901, 902 (D.Mont1967) 12,13,16

Weedo v. Stone-E-Brick, Inc., 81 N.J. 233, 405 A.2d 788 (S.Ct. N.J. 1979). 14,15,17,18

Western Cas.& Sur. v. Intern. Spas of Ariz., 130 Ariz. 76, 634 P.2d 3 (Ariz.App.1981). 12

PAGE

STATUTES

28 U.S.C. §1254(1) 2

28 U.S.C. §1332. 5

28 U.S.C. §2201. 5

MISCELLANEOUS

Tinker, Comprehensive General Liability Insurance - Perspective and Overview, 25 Federal Insurance Counsel Quarterly, Spring, 1979 17,18

LIST OF ALL PARTIES IN THE COURT BELOW

All parties in the Court below are listed in the caption. Stillwater Condominium Association was substituted for the original parties, Big Sky of Montana, Inc. and Chrysler Realty Corporation, in the Trial Court proceedings and is itself an association with 60 unit members. A list of the Stillwater unit owners as contained in the Certification required by the Rules of the Ninth Circuit Court of Appeals is reproduced, by reason of length, in the Appendix. (Appendix vi)

OPINIONS BELOW

The Opinion of the District Court is reported at 508 F.Supp. 1075 (D.Mont.1981). The Opinion of the Court of Appeals is unreported. Both Opinions together with the original judgment appear in the Appendix hereto.

GROUNDS ON WHICH THE JURISDICTION OF THIS COURT IS INVOKED

The judgment of the Court of Appeals for the Ninth Circuit was entered on August 6, 1982. A timely petition for rehearing was de-

nied on October 21, 1982, (Appendix iv) and this Petition for Certiorari is filed within 90 days of that date. This Court's jurisdiction is invoked under 28 U.S.C. §1254(1).

STATEMENT OF THE CASE

1. THE FACTUAL BACKGROUND.

In the early 1970's the late Chet Huntley envisioned a resort area in his native Montana which reached fruition, with the aid of Chrysler Realty Corporation, as Big Sky of Montana, Inc. The master plan included skiing, golfing and other recreational areas complete with a hotel - commercial complex and a number of condominiums located near the skiing and golf facilities. Stillwater was conceived as a complex of four buildings to be located adjacent to the hotel - commercial complex near the ski lifts.

Construction was started in early 1973 and work thereafter progressed until substantial completion was achieved in 1974. After the owners commenced to occupy their units certain defects were noticed. These included

both structural and design defects in addition to damages to interior units because of roof leaks, freezing pipes and insufficient siding.[1] Various meetings were held between Stillwater and Big Sky with no satisfactory results and the State Court litigation was ultimately filed and amended to include the insureds, Big Sky and Chrysler Realty, on October 4, 1977. (Clerk's Record 11, hereafter CR, Rochefort Affidavit at p.2)

The State Court litigation sought damages for the defective structures and Big Sky tendered the defense to the insurers which thereafter accepted the tender and participated in the preparation of pleadings and pre-trial discovery. (CR 11, Haddon Affidavit pp.2-3) As this litigation continued Stillwater twice amended the complaint and ultimately converted the State Court litigation to include a class

---

1/ Stillwater Condominium Association v. American Home Assurance Company, 508 F.Supp. 1075 (D.Mont. 1981). "Just a few of the indicia of that poor construction were leaking roofs, delaminating siding, and improperly installed wiring and plumbing."

action involving all of the condominium owners. (CR 11, Exhibit 2 to Rochefort Affidavit) After participating in discovery to a point where damage to individual personal property of condominium owners was indicated, being caused by leaking roofs, frozen pipes, etc., the insurers withdrew their defense and denied coverage. (CR 11, Haddon Affidavit at p.2; CR 34 Wellcome Affidavit, Addendum A)

Substantial additional discovery was undertaken culminating in an extensive deposition of the Stillwater architect in which he detailed the various elements of damage. (CR 18, Deposition of Doug Rand) Following this deposition the case was settled in a good faith settlement which included the insureds' assigning to Stillwater all rights which they had against the insurers to recover for the amount of the settlement including costs and expenses, together with all other relief to which Stillwater might be entitled. (CR 30)

2. THE PROCEEDINGS IN THE COURTS BELOW

This case was originally filed as a De-

claratory Judgment action by the original insureds Big Sky of Montana, Inc. and Chrysler Realty Corporation, (hereafter Big Sky or insureds) to obtain a declaration of coverage under certain insurance policies written by the insurers to insure the construction of condominiums and related structures which the insureds were constructing at the Big Sky resort. (Excerpt of Record, p.1, hereafter ER) Jurisdiction was based upon diversity of citisenship, 28 U.S.C.§1332 and §2201. The declaratory judgment action resulted from the insurers' refusal to continue the defense of the State Court litigation. (Exhibit 1 to Complaint for Declaratory Judgment, CR 3(1), ER 9)

While the declaratory judgment action was pending the State Court litigation was settled with a portion of the consideration for the settlement being an assignment of the insureds' interests in the insurance policies with Stillwater being thereafter substituted as the plaintiff in the District Court. (CR 30)

The insureds originally filed a Motion for Order Specifying Facts Appearing Without Substantial Controversy (Rule 56(d)) (CR 10, ER p.35) and the insurers countered with a Motion for Summary Judgment. (CR 16, ER p.38) After Stillwater was substituted as the sole party plaintiff the Motion was converted to a Motion for Partial Summary Judgment (Rule 56(c)) (CR 18, ER p.39) and Stillwater filed a Motion to Amend to claim consequential damages. (CR 22, ER p.46) With the filing of supporting affidavits, full briefing and oral argument, the District Court granted the insurers' Motion for Summary Judgment and denied all other pending motions. Following the District Court's denial of post judgment motions, again supported by affidavit and supplemental brief, Stillwater appealed to the Court of Appeals for the Ninth Circuit which affirmed the District Court.

ARGUMENT

1. THE NINTH CIRCUIT MEMORANDUM OPINION IS SO DEFICIENT AS TO REQUIRE REVIEW BY THIS COURT.

The opinion of the Court below treats, in

a three-page per curiam opinion, one of the more complex and far reaching issues of insurance law in such a manner as to deny substantive due process to the parties. Although this case is clearly not framed within Constitutional guidelines, the opinion of the three judge panel simply does not comport with even minimal judicial construction.

While the function of this application is to show overriding public interest, the interest of the 60 unit members of the Stillwater Association deserves more than cursury treatment. As pointed out hereafter in the substantive issues, this particular question is one which has concerned State and Federal Courts for decades without substantial clarification by the insurance industry. When intermediate appellate courts are reversed by final appellate authority, coupled with divided opinions, lengthy dissents and deviations in fundamental rationale, everyone involved is entitled to a more thorough, and conscientious, treatment within the federal appeals structure.

We have recently experienced a decided downturn in the economy with devastating repercussions in the construction industry. Defunct firms, Chapter 11 proceedings and outright bankruptcies are a result of the economic subsidence. Where the constructing modality fails the only recourse is against insurance carriers which have provided insurance on the project. The insurance industry has for years relied upon the exclusionary interpretation by the ultimate numerical majority of courts without at any time adopting clear language in the policy which would allow the insured and the owners to choose between liability insurance and bonding.

In this potentially "worst of times" for a vitally significant industry which touches the lives of everyone who would own a house or business, those involved in the entire spectrum from preliminaries of construction through occupation and future manifestations of latent defects, are entitled to a comprehensive, detailed and considerate treatment of the sig-

nificant issues raised in the Court below.

Absent review by this Court, the highest pronouncement of the Federal Courts on this subject will be the clearly deficient opinion of the Ninth Circuit Court of Appeals. Substantial justice for the Stillwater owners and the potential of large involvement by the public as a whole requires a searching analysis of this far reaching problem. The lip service rendered by the Court below does not measure up to even minimal standards of appellate consideration. Such a deficiency can only be rectified by adequate appellate consideration by this Court.

2. THE CONSTRUCTION PLACED UPON THE POLICY PROVISIONS IS CONTRARY TO PRIOR NINTH CIRCUIT INTERPRETATION AND THE INTERPRETATION OF OTHER FEDERAL AND STATE COURTS.

Lengthy briefing in the Court below, including an Appellant's Reply Brief, Appellant's Additional Citations and a separate Petition for Rehearing, pointed out to the Court not only the divergence of opinion noted by the District Court but also additional authorities

in the Federal judicial structure which mandated a holding in favor of the Stillwater Condominium owners. These authorities were either totally ignored or marginally footnoted by the Court.

Prior to deciding the instant case the Ninth Circuit in 1979 decided St. Paul Fire and Marine Insurance Company v. Sears, Roebuck and Company, 603 F.2d 780 (9th Cir.1979). This basic holding is that there is coverage and the duty to defend where damage results to structures other than the insured's product. Although significant damage was alleged, such as resulting loss of rental income, and established by deposition while the insurance carriers were actively representing the insureds, this damage is passed off in the opinion of the Court below as an "isolated reference". The opinions of the Circuit Court of Appeals and the District Court fail to come to grips with a situation where active participation in the litigation yields information requiring a defense and at least partial coverage.

Other Ninth Circuit cases have held that a duty to defend arises where the complaint presents a possibility that the insured could be found liable. Previews Inc. v. California Union Ins. Co., 640 F.2d 1026 (9th Cir.1981) and the Seventh Circuit has expressly held that the insurance carrier cannot abandon the insured. Maneikis v. St. Paul Ins. Co. of Illinois, 655 F.2d 818 (7th Cir.1981) There the Seventh Circuit reversed a summary judgment in favor of the insurance carrier based in part upon a consideration of facts outside the pleadings:

> "Our inquiry, therefore, is limited to a determination of whether St. Paul wrongfully failed to defend Solotke. The propriety of St. Paul's August 1, 1978, refusal to defend requires an examination of the complaint in the underlying lawsuit as well as any facts outside the complaint which were known to the insured." (Citations omitted - 655 F.2d at 823)

Other Federal cases have reached a similar result. See Central Armature Works v. Am. Motorists, Inc., 520 F.Supp. 283 (D.Ct.D.C. 1980) Although the opinion below purports to construe Montana law as being limited to a

consideration of the pleadings, actually no Montana case has considered the precise question.[2/]

The other areas which the Court below treats in a desultory manner are denial of coverage based upon the exclusions and the conflict among the Courts as creating ambiguity per se. On the latter subject the Honorable Russell E. Smith held in Walker v. Firemans' Fund Insurance Co., 268 F.Supp. 899, 901, 902 (D.Mont.1967) as follows:

> "Had no court considered this problem, and were this a case of first impression, I would be persuaded to adopt the defendant's position and hold that the language of the policy is not ambiguous; that the unqualified use of the work 'insured' in the exclusion clause includes both the named insured and the omnibus insured and their respective employees. Here, however, I must determine what path the Montana Supreme Court would take in light of all that has been written by many courts."
>
> "Nothing is to be gained by reviewing any authorities. (Citations omitted) It

---

2/ cf. Western Cas. & Sur. v. Intern. Spas of Ariz. 130 Ariz. 76, 634 P.2d 3 (Ariz.App.1981) "Accordingly, the duty to defend should focus on the facts rather than upon allegations of the ultimate determination of liability." (634 P.2d at 6)

> is sufficient to note that there is an rreconcilable conflict which has existed for many years and which has been widely advertised in the insurance community."
>
> * * *
>
> "I suppose that a writing is ambiguous when different persons looking at it in the light of its purpose cannot agree upon its meanings. The history of these insurance clauses in the courts convinces me that they are ambiguous; they are susceptible of two interpretations. The real fact of this diversity of opinion between courts and within courts overcomes the conclusions that I would reach where I left alone with nothing but the words of the policy to consider. This demonstrable difference of opinion, I believe, would be persuasive with the Supreme Court of Montana as it was with the Supreme Court of Oregon."
>
> "Since these clauses are ambiguous -- are susceptible to two meanings -- that meaning which is favorable to the insured should be adopted under the law of Montana." (Footnotes omitted.)

The distinction made by the Court below in footnote 2 that: "[A]s Walker is a federal and not a state court decision, the court below was not bound by its ruling and it does not affect our standard of review in this case[.]" is certainly unclear and appears contradictory to Judge Smith's opinion in a

diversity case involving the interpretation of an insurance policy under Montana law.

On the main question, the particular exclusions and the determination of ambiguity, the Ninth Circuit Opinion is devoid of any type of judicial or scholarly approach. While a majority of the decided cases are cited in the Opinions of the District Court and the Court of Appeals, there is no consideration given by the Court of Appeals to the diversity of opinions from court to court. Where courts differ internally, Haugan v. Home Indemnity Company, 86 S.Dak.406, 197 N.W.2d 18 (S.Dak. 1972) dissenting opinion, Weedo v. Stone-E-Brick, Inc., 81 N.J. 233, 405 A.2d 788 (S.Ct. N.J.1979) dissenting opinion,[3/] and where

---

3/ PASHMAN, J., dissenting. "I respectfully dissent. While the majority's analysis of the pertinent provisions of the insurance policy is not without appeal and likely constitutes the interpretation that would be given this contract by a legal scholar well-versed in insurance law, in my opinion these provisions are clearly ambiguous from the viewpoint of the average consumer of CGL coverage. Consequently, I would hold that in the present case the carrier is liable for any sums which its insured is ultimately deemed to owe to the plaintiff. . . ."

Supreme Courts are overruling and disapproving decisions of intermediate appellate courts, Indiana Ins. Co. v. DeZutti; 408 N.E.2d 1275 (S.Ct.Ind.1980) Weedo v. Stone-E-Brick, Inc., supra; LaMarche v. Shelby Mutual Ins. Co., ___Fla___, 390 So.2d 325 (Sup.Ct.Fla.1980) there is such a divergence of opinion as to require a federal construction which will resolve the conflicting interpretations. These conflicting interpretations include such cases as B.A. Green Construction Co., Inc. v. Liberty Mutual Insurance Co., 213 Kan.393, 517 P.2d 563 (Sup.Ct.Kan.1973) which follows the authority enunciated in Haugan v. Home Indemnity Company, supra, 86 S.Dak.406, 197 N.W.2d 18 (S.Dak. 1972) but ultimately holds that there would be coverage afforded under exclusion (k) as follows:

> "Green further argues he has coverage under exclusion (k) if coverage is prohibited by exclusion (m). As we construe exclusion (k) it provides coverage only if the insured's work or product actively malfunctions and causes damage to property other than insured's work product. (Haugan v. Home Indemnity Company, supra.)"

A consideration of exclusion (k) although fully briefed and agrued in both courts below was not even mentioned by either court.

Two Second Circuit cases cited to, and disregarded by, the Court below deal with ambiguity and construction against the party creating the ambiguity. These cases, Vargas v. Insurance Company of North America, 651 F.2d 838 (2nd Cir.1981) and Filos, Bullard and Smyth v. Insurance Company of North America, 605 F.2d 598 (2nd Cir.1978) are important in that they construe ambiguity under New York law, which is the same as Montana law and the law of every other jurisdiction, in a manner most favorable to the insured. Walker v. Fireman's Fund, supra, 268 F.Supp. 899, 902 (D.Mont.1967). The opinion of the Court below ignores this entire theory set forth in careful briefing analysis based upon valid precedent. See Aid Insurance Services, Inc. v. Mel Geiger d/b/a Mel's Concrete Construction, __N.Dak.___, 294 N.W.2d 411 (Sup. Ct.N.Dak.1980) as follows:

"We conclude that uncertainty does exist in the present case and the language of exclusion (a) is susceptible to a construction which will impose liability on the insurer, Aid Insurance, and afford coverage to the insured, Geiger. The coexistence of exclusionary provisions (a) and (o) creates, at the very least, an ambiguity which must be resolved in favor of the insured so as to provide coverage. Insurance contracts are unipartite in character. They are drafted by company experts learned in the law of insurance. Insurance policies should be written so that an ordinary layperson, untrained in the field of insurance, can clearly understand them and know whether or not coverage is afforded. If they are not so written, the insurance company must assume the consequences of the ambiguity and resulting confusion.

We say this fully cognizant of the conflicting decisions of the various jurisdictions which have construed identical or comparable provisions." (Citations omitted)"

Finally, all of the cases based upon the approach taken by Weedo v. Stone-E-Brick, Inc., 81 N.J. 233, 405 A.2d 788 (S.Ct.N.J.1979) which was adopted by the District Court and affirmed by the Court below, are premised upon the construction of policy language first enunciated by an insurance publication. A copy of the article "Comprehensive General Liability

Insurance - Perspective and Overview" by George H. Tinker was provided to the Court below. The face sheet of this article from 25 Federal Insurance Counsel Quarterly, Spring, 1979, is reproduced in the Appendix and illustrates that the Courts following Weedo have construed these exclusions in a manner most favorable to the insurance carriers as first defined by the Associate General Counsel of the Kemper Insurance Companies.4/

4/ Weedo v. Stone-E-Brick, Inc., 81 N.J.233, 405 A.2d 788 (S.Ct.N.J.1979) supra at p. 795: "As a variant of its argument that exclusion '(a)' grants the coverage it seeks, Stone-E-Brick contends that this exception, when read in conjunction with the 'business risk' exceptions, is confusing in that coverage 'granted' by the former clause is taken away by the latter two. 155 N.J.Super. at 486, 382, A.2d 1152. But this argument too ignores the principle that

> '[e]ach exclusion is meant to be read with the insuring agreement, independently of every other exclusion. The exclusions should be read seriatim, not cumulatively. If any one exclusion applies there should be no coverage, regardless of inferences that might be argued on the basis of exceptions or qualifications contained in other exclusions. There is no instance in which an exclusion can properly be regarded as inconsistent with another exclusion, since they bear no relationship with one another.' [Tinker, op. cit., supra., 25 Feder.Ins.Couns.Q. at 223.]"

3. THE INSURANCE INDUSTRY IS SO INFUSED WITH OVERRIDING PUBLIC RESPONSIBILITY AS TO REQUIRE A DEFINITIVE CONSTRUCTION OF OFT LITIGATED AND DIVERGENTLY INTERPRETED STANDARD POLICY PROVISIONS.

Apart from a consideration of the troubled construction industry, Issue 1, supra, consideration should be given to the importance of the insurance industry as a whole. While the property of 60 unit owners has been affected by the outcome of this case, everyone, in their daily lives, comes into contact with some aspect of the insurance industry.

Whether we are dealing with our homes, our automobiles, our health or our lives, each of us must deal with the vagaries and complexities of policy language contained in insurance contracts. Although this case involves only one area of this vitally important service industry, it is an area which has primary concern to the vast construction industry and important secondary concern to the public in general as purchasers of potentially defective houses, shops and businesses. The diversity of opinion in an area so fundamental

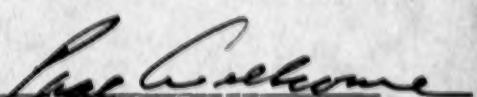
to public endeavors, whether we be the Federal government, builders or homeowners, requires a far reaching and searching examination of this most basic insurance coverage question.

CONCLUSION

For these reasons, a Writ of Certiorari should issue to review the judgment and opinion of the Ninth Circuit.

Respectfully Submitted,

WELLCOME & FROST, P.S.C.

By 

Page Wellcome
136 East Main Street
Bozeman, Montana 59715
(406) 586-4747

Attorney for Petitioner

CERTIFICATE OF FILING AND SERVICE

I hereby certify that I am a member of the bar of the Supreme Court of the United States and have this 14th day of January, 1983, within the time permitted by the Revised Rules of the Supreme Court of the United States, deposited in a United States Post Office, with first-class postage prepaid, and properly addressed to the Clerk of the Supreme Court of the United States, forty (40) copies of the Petition for Writ of Certiorari.

I further certify that I have on the same date served the Petition for Writ of Certiorari upon all parties by causing three (3) copies thereof to be sent by first class United States mail, postage prepaid, to the offices of their attorneys as listed below:

Mr. Ben E. Berg
Berg, Coil, Stokes & Tollefsen
Attorneys at Law
Post Office Box 550
Bozeman, Montana 59715

Attorney for American Home Assurance Company, Defendant-Appellee

Mr. James E. Purcell
Henningsen, Purcell & Genzberger,P.C.
Attorneys at Law
Post Office Box 399
Butte, Montana 59701

Attorney for Fireman's Fund
Insurance Company, Defendant-
Appellee

Page Wellcome
WELLCOME & FROST, P.S.C.
136 East Main Street
Bozeman, Montana 59715
(406) 586-4747

Attorney for Petitioner

Subscribed and sworn to before me, a Notary Public for the State of Montana, this 14th day of January, 1983.

Notary Public
Residing at Bozeman, Montana
My Commission expires 2/9/85